

**AUBURN AREA RECREATION AND PARK DISTRICT MEETING OF THE
PROGRAM, PERSONNEL, POLICY, FEE & LEGAL REVIEW COMMITTEE AGENDA**
WEDNESDAY, JULY 19, 2023, 12:30 PM
CANYON VIEW COMMUNITY CENTER, BOARD ROOM
AUBURN, CA

Materials related to an item on this Agenda submitted to the District after distribution of the agenda packet are available for public inspection by contacting the District Administrator at kmuscott@auburnrec.com or by calling (530) 537-2186 (M-F).

The public may participate in the meeting in-person or through Zoom. The link for this meeting is <https://us06web.zoom.us/j/84057333741>. The public can use this link and/or call 1 669 900 6833 Webinar ID: 840 5733 3741 to participate.

People using the Zoom website will be able to see and hear the Committee, and the Committee will be able to hear the public. The Committee will not receive any visual/video from the public. This is done to avoid inappropriate visual content at the meeting.

Questions and comments can be sent via email to the District Administrator no later than one hour before the meeting. These emails will be read aloud at the meeting and responded to accordingly. Emails can be sent during the meeting, and staff will work to ensure that all are read, however the best way to have your comment heard is through the Zoom meeting or the associated phone number.

If you are a person with a disability and need an accommodation to participate in the District's programs, services, activities, and meetings, contact Kahl Muscott at (530) 537-2186 or kmuscott@auburnrec.com at least 48 hours in advance to request an auxiliary aid or accommodation.

1.0 CALL TO ORDER

Ainsleigh _____ Holbrook _____

2.0 ANNOUNCEMENTS, AGENDA REVIEW, CHANGES AND APPROVAL

3.0 PUBLIC COMMENT – This is the time wherein any person may comment on any item not on the agenda within the subject matter jurisdiction of the Committee
Chairperson, please state your name and address for the record (optional). There is a time limitation of three minutes.

4.0 BUSINESS

4.1 Approval of Minutes from the June 21, 2023 Program, Personnel, Policy, Fee & Legal Review Committee Meeting (Pages 3-4)

Recommendation: Review and approve minutes.

4.2 Approval of Legal Bills

None.

Discussion items:

1. Review of the Atwood III Engineer's Report and possible changes to the description of the park, preserve and improvements.

5.0 ITEMS TO BE CONSIDERED AT FUTURE PROGRAM, PERSONNEL, POLICY & FEE COMMITTEE MEETINGS

None.

6.0 PENDING ITEMS REQUIRING MORE DETAILED RESEARCH

None.

ADJOURNMENT

AUBURN AREA RECREATION AND PARK DISTRICT
This agenda is hereby certified to have been posted as follows:

July 14, 2023
Date

1:30 pm
Time

Cathy W. Sanford
Secretary to the Board

**Auburn Area Recreation and Park District
Minutes of the Program, Personnel, Policy, Fee & Legal
Review Committee Meeting
Wednesday, June 21, 2023 at 12:30 PM
Canyon View Community Center
471 Maidu Drive
Auburn, CA 95603**

1.0 CALL TO ORDER

The meeting of the Program, Personnel, Policy, Fee & Legal Review Committee was called to order at 12:36 PM

ROLL CALL

Director Holbrook was present. Director Ainsleigh was late.

2.0 ANNOUNCEMENTS, AGENDA REVIEW, CHANGES AND APPROVAL

A motion was made to move 4.5 Fee Waivers Policy Amendment – 501 c3 Designation to after 4.1 Approval of the Minutes.

3.0 PUBLIC COMMENT- This is the time wherein any person may comment on Any item not on the agenda within the subject matter jurisdiction of the Committee. After you are recognized by the Committee Chairperson, please state your name and address for the record (optional). There is a time limit of three minutes.

None.

4.0 BUSINESS

4.1 Approval of Minutes from the May, 2023 Program, Personnel, Policy, Fee & Legal Review Committee Meeting

The Committee reviewed and approved the minutes from May 17, 2023, Program, Personnel, Policy, Fee & Legal Review Committee.

4.2 Approval of Legal Bills

The Committee approved the Legal Bill.

4.3 District Policy Proposed Amendment – Purchasing Limits

The Committee recommended to the Board to update the Purchasing Limit for the Facilities and Grounds Manager to \$20,000 maximum monthly amount and up to \$7,500 per purchase. Director Holbrook would like to see more information on Facilities and Grounds purchases should staff like to further increase the amounts.

4.4 Salary Survey

The Committee had a split recommended to the Board. Director Holbrook would like to leave the pay scales as they are. Director Ainsleigh recommend option #2 but remove the Sports Coordinator.

4.5 Fee Waiver Policy Amendment – 501 c3 Designations.

The Committee sent a positive recommendation to the Board to modify the current policy on fee waivers, requiring that fee waiver only be granted to organization with 501 c3 designation.

Discussion items:

None.

5.0 ITEMS TO BE CONSIDERED AT FUTURE PROGRAM, PERSONNEL, POLICY, FEE & LEGAL REVIEW COMMITTEE MEETINGS

None.

6.0 PENDING ITEMS REQUIRING MORE DETAILED RESEARCH

None.

ADJOURNED

As there was no further business, the meeting was adjourned at 12:54 PM.

Cody Wayford
Board Secretary

June 29, 2023
Date

Discussion Item 1 - Review of the Atwood III Engineer's Report and possible changes to the description of the park, preserve and improvements

Auburn Area Recreation and Park District Policy Committee July, 2023

The Issue

Shall the Auburn Area Recreation and Park District (ARD) review and make suggested changes to Atwood III Engineer's Report, including providing a better description of the park, preserve and improvements? Director Holbrook requested that this item be reviewed.

BACKGROUND

Annually, the ARD Board of Directors has a Public Hearing to consider approving the coming year's Engineer's Report for the Atwood III Lighting and Landscape District. The main purpose of this Report is to provide for the funding of the maintenance and improvements at the associated park and preserve.

It has been suggested that possible changes to the Atwood III Engineer's Report should be made to better explain what is considered to be part of the "Park" and what is considered to be part of the "Nature Preserve". A DRAFT of the FY 23/24 Engineer's Report is included, with some possible changes noted.

Of special note: at some point in the process, the Engineer at SCI Consulting Group, ARD's contracted Lighting and Landscape professionals, will need to review and weigh in on any possible changes. At this point, ARD Board and staff will just be reviewing the document and discussing any possible or proposed changes.

RECOMMENDATION

Review and provide input and suggestions. This item can be forwarded to the Board for their comments, or the proposed changes can be forwarded to the Engineer at SCI for their comments.

FISCAL IMPACT

N/A

ATTACHMENTS:

Atwood III 2023 – 24 Engineer's Report (abbreviated version) with proposed changes highlighted

FY 2023-24

Engineer's Report

Auburn Area Recreation and Park District Landscaping and Lighting Assessment District Atwood Ranch III

May 2023
Preliminary Report

Note: This is an INCOMPLETE version of the FY 23/24 Atwood Engineer's Report. The full version, which was approved by the ARD Board on June 29, 2023, is available upon request.

This version is shortened in the interest of saving paper and printing costs.

Engineer of Work:



4745 Mangels Boulevard
Fairfield, California 94534
707.430.4300
www.sci-cg.com

Auburn Area Recreation and Park District

Board of Directors

James A. Gray, Chair

H. Gordon Ainsleigh, Director

Sue Ingle, Director

Mike Lynch, Director

Scott R. Holbrook, Director

District Administrator

Kahl Muscott

Administrative Services Manager

Veona Galbraith

Clerk/Secretary of the Board and to the District Administrator

Cathy Warford

District Legal Counsel

Derek Cole

Engineer of Work

Lead Assessment Engineer, John Bliss, M. Eng., P.E.

SCI Consulting Group

Executive Summary

Assessment Background

The Auburn Area Recreation and Park District, Atwood Ranch III Landscaping and Lighting Assessment District (the "Assessment District"), was formed by a mailed ballot proceeding in 2004 to provide funding for the maintenance and improvement of the neighborhood park facilities and wetlands preserve (Nature Preserve) areas adjacent to the properties in the Atwood Ranch III subdivision that forms the Assessment District (the "Improvements"). The Atwood Ranch III subdivision is located south of Atwood Road, generally to the northwest of the intersection of Bean Road and Kemper Road. The subdivision is comprised of 143 single-family residences. This Assessment District formation resulted from agreements or conditions of development approval between the Auburn Area Recreation and Park District ("RPD") and the property owner, Morrison Homes, Inc., whereby the RPD and property owner agreed on neighborhood park maintenance to improve the appeal of the community, and maintenance of wetlands preserve areas pursuant to Army Corps of Engineers mandates.

Assessment Process

In 2004, the Auburn Area Recreation and Park District Board of Directors (the "Board") conducted an assessment ballot proceeding pursuant to the requirements of Article XIII D of the California Constitution ("The Taxpayer's Right to Vote on Taxes Act") and the Landscaping and Lighting Act of 1972. During this ballot proceeding, property owners in the Assessment District were mailed a notice and ballot for the proposed Assessment District. A 45-day period was provided for balloting, and a public hearing was conducted on December 16, 2004. After the close of the public input portion of the public hearing, all ballots returned within the 45-day balloting period were tabulated.

The tabulation results determined that the assessment ballots submitted in opposition to the proposed assessments did not exceed the assessment ballots submitted in favor of the assessments (with each ballot weighted by the proportional financial obligation of the property for which the ballot was submitted).

As a result, the Board gained the authority to approve the levy of the assessments for Fiscal Year 2005-06 and to continue to levy them in future years. The initial, maximum assessment rate balloted and established in Fiscal Year 2005-06 was \$148.62 per single-family equivalent benefit unit. The levies were submitted to the Placer County Auditor for inclusion on the property tax rolls for Fiscal Year 2005-06. The assessments may be continued in future years and may be increased in future years by an annual adjustment tied to the Consumer Price Index for the San Francisco Bay Area as of December of each succeeding year, with the maximum annual adjustment not to exceed 5%. Any change in the CPI in excess of 5% shall be cumulatively reserved as the "Unused CPI" and may be used to increase the maximum authorized assessment rate in years in which the CPI is less than 5%. The maximum authorized assessment rate is equal to the maximum assessment rate in the first fiscal year the assessment was levied, adjusted annually by the minimum of 1) 5% or 2) the change in the CPI plus any Unused CPI as described above.

Based on the preceding annual adjustments, the maximum possible assessment rate for Fiscal Year 2022-23 was \$235.09 per single family equivalent benefit unit. The annual change in the CPI from December 2021 to December 2022 was 4.88%. Therefore, the maximum authorized assessment rate for Fiscal Year 2023-24 has been increased from \$235.09 to \$246.56 per single family equivalent benefit unit. However, the estimate of cost and budget in this Engineer's Report proposes assessments for fiscal year 2023-24 at the rate of \$206.01 per single family equivalent benefit unit, which is a 4.00% increase over fiscal year 2022-23 and less than the maximum authorized assessment rate.

Engineer's Report and Continuation of Assessments

In each subsequent year for which the assessments will be continued, the Board must direct the preparation of an Engineer's Report, budgets, and proposed assessments for the upcoming fiscal year. After the Engineer's Report is completed, the Board may preliminarily approve the Engineer's Report and proposed assessments and establish the date for a public hearing on the continuation of the assessments. This Report was prepared pursuant to the direction of the Board by resolution on May 25, 2023.

This Engineer's Report ("Report") was prepared to establish the budget for the continued improvements and services that would be funded by the proposed assessments, determine the benefits received from the assessments, and the method of assessment apportionment to lots and parcels within this area. This Report and the proposed assessments have been made pursuant to the Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code (the "Act") and Article XIII D of the California Constitution (the "Article"). This Report is the detailed Engineer's Report required by the Article and the Report required by Section 22565 of the Act.

Following the submittal of this Report to the Board for preliminary approval, the Board may, by Resolution, call for the Public Hearing on the continued assessments for park and Wetland Preserve maintenance and improvements. This hearing is scheduled for June 29, 2023, at 6:00 p.m. After the close of the hearing, the Board may take action to approve the continuation of the assessments for Fiscal Year 2023-24. If the assessments are so confirmed and approved, the levies will be submitted to the County Auditor/Controller in July 2023 for inclusion on the property tax roll for Fiscal Year 2023-24.

The maintenance of 10.69 acres of park and wetland preserves was provided by the developer for the first five years after the Assessment District was formed in Fiscal Year 2005-06. Following that time period, the park and wetlands preserve areas maintenance services were to be provided by the Auburn Area Recreation and Park District. Maintenance of the park and wetlands preserve areas is now provided by the Auburn Area RPD.

Legal Analysis

Proposition 218

This assessment was formed consistent with Proposition 218, The Right to Vote on Taxes Act, which was approved by the voters of California on November 6, 1996 and is now Article XIIC and XIID of the California Constitution. Proposition 218 provides for benefit assessments to be levied to fund the cost of providing services, improvements, as well as maintenance and operation expenses to a public improvement that benefits the assessed property.

Proposition 218 describes several important requirements, including a property-owner balloting, for the formation and continuation of assessments, and these requirements are satisfied by the process used to establish this assessment.

Silicon Valley Taxpayers' Association, Inc. v. SCCOSA

In July of 2008, the California Supreme Court issued its ruling on the Silicon Valley Taxpayers Association, Inc. v. Santa Clara County Open Space Authority ("SVTA vs. SCCOSA"). This ruling is the most significant court case in further legally clarifying the substantive assessment requirements of Proposition 218. Several of the most important elements of the ruling included further emphasis that:

- Benefit assessments are for special, not general, benefit
- The services and/or improvements funded by assessments must be clearly defined

- Special benefits are directly received by and provide a direct advantage to property in the assessment district

Dahms v. Downtown Pomona Property

On June 8, 2009, the 4th Court of Appeal amended its original opinion upholding a benefit assessment for property in the downtown area of the City of Pomona. On July 22, 2009, the California Supreme Court denied review. On this date, Dahms became good law and binding precedent for assessments. In Dahms, the Court upheld an assessment that was 100% special benefit (i.e., 0% general benefit) on the rationale that the services and improvements funded by the assessments were directly provided to property in the assessment district. The Court also upheld discounts and exemptions from the assessment for certain properties.

Bonander v. Town of Tiburon

On December 31, 2009, the 1st District Court of Appeal overturned a benefit assessment approved by property owners to pay for placing overhead utility lines underground in an area of the Town of Tiburon. The Court invalidated the assessments on the grounds that the assessments had been apportioned to assessed property based in part on relative costs within sub-areas of the assessment district instead of proportional special benefits.

Beutz v. County of Riverside

On May 26, 2010, the 4th District Court of Appeals issued a decision on the Steven Beutz v. County of Riverside (“Beutz”) appeal. This decision overturned an assessment for park maintenance in Wildomar, California, primarily because the general benefits associated with improvements and services were not explicitly calculated, quantified, and separated from the special benefits.

Golden Hill Neighborhood Association v. City of San Diego

On September 22, 2011, the San Diego Court of Appeal issued a decision on the Golden Hill Neighborhood Association v. City of San Diego appeal. This decision overturned an assessment for street and landscaping maintenance in the Greater Golden Hill neighborhood of San Diego, California. The Court described two primary reasons for its decision. First, like in *Beutz*, the Court found the general benefits associated with services were not explicitly calculated, quantified, and separated from the special benefits. Second, the Court found that the City had failed to record the basis for the assessment on its own parcels.

Compliance with Current Law

This Engineer's Report is consistent with the requirements of Article XIIC and XIID of the California Constitution and with the *SVTA* decision because the improvements to be funded are clearly defined; the benefiting property in the Assessment District enjoys close and unique proximity, access, and views to the Improvements; the Improvements serve as an extension of usable land area for benefiting properties in the Assessment District, and such special benefits provide a direct advantage to property in the Assessment District that is not enjoyed by the public at large or other property. In addition, the improvements are directly available to and will directly benefit property in the Assessment District; and the improvements provide a direct advantage to property in the Assessment District that would not be received in the absence of the Assessments.

This Engineer's Report is consistent with *Beutz, Dahms, and Greater Golden Hill* because the Services will directly benefit property in the Assessment District, and the general benefits have been explicitly calculated and quantified and excluded from the assessments. Moreover, while *Dahms* could be used as the basis for a finding of 0% general benefits, this Engineer's Report establishes a more conservative measure of general benefits.

The Engineer's Report is consistent with *Bonander* because the Assessments have been apportioned based on the overall cost of the improvements and proportional special benefit to each property.

Plans & Specifications

Following is a description of the Services that are provided for the benefit of property in the Assessment District. This Assessment District was created as a condition of development for the corresponding developments. Accordingly, prior to these developments, the level of service in these areas was effectively zero. The formula below describes the relationship between the final level of improvements, the baseline level of service (pre-development) had the assessment not been instituted, and the enhanced level of improvements funded by the assessment.

Final Level of Service	=	Baseline Level of Service (zero, pre-development)	+	Enhanced Level of Service
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The work and improvements (“Improvements”) proposed to be undertaken by the Auburn Area Recreation & Park District and the Atwood Ranch III Landscaping and Lighting Assessment District (the “Assessment District”) and the costs thereof paid from the levy of the annual assessments provide special benefit to Assessor Parcels within the Assessment District as defined in the Method of Assessment herein. Consistent with the Landscaping and Lighting Act of 1972 (the “Act”), the work and improvements are generally described as follows:

Installation, maintenance, and servicing of public improvements, including but not limited to labor, materials, supplies, utilities, and equipment, as applicable, for property within the Assessment District that is owned or maintained by the Auburn Area Recreation & Park District. Any plans and specifications for these improvements will be filed with the District Administrator of the Auburn Area Recreation & Park District and are incorporated herein by reference.

As applied herein, “maintenance” means the furnishing of services and materials for the ordinary and usual maintenance, operation, and servicing of any improvement, including repair, removal, or replacement of all or any part of any improvement; providing for the life, health, and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or injury; the removal of trimmings, rubbish, debris, and other solid waste; the cleaning, sandblasting, and painting of walls and other improvements to remove or cover graffiti.

“Servicing” means the furnishing of electric current, or energy, gas, or other illuminating agents for any public lighting facilities or for the lighting or operation of any other improvements, or water for the irrigation of any landscaping, the operation of any fountains, or the maintenance of any other improvements.

Fiscal Year 2023-24 Estimate of Cost and Budget

Atwood Ranch III Landscaping and Lighting Assessment District

Description of Improvements

Within the Assessment District, the existing and proposed improvements are generally described as maintenance of a neighborhood park and tot lot within the development area known as Atwood Ranch III, as well as trails in the wetlands preserve area; irrigation and turf of a small grass area adjacent to the tot lot; monitoring of 10.69 acres of wetlands preserve area (located within the area currently known as Lots B and C) with associated riparian scrubland, seeps, floodplains, pond and drainage areas to a stormwater detention area; and reporting once yearly to the Army Corps of Engineers, including biology reports and project management reports.

